S.B.Civil Transfer Petition NO.25/07
Panchayat Samiti,Sujangarh & anr.
Vs.
The District Judge, Churu & ors.

Date of Order : 01.5.2007

HON'BLE MR. PRAKASH TATIA,J.

Mr. Chaitanya Gehlot for the petitioners.

Heard learned counsel for the petitioners.

The suit was filed on 24.5.1984, 23 years ago for perpetual and mandatory injunction. The suit was initially filed in the court at Ratangarh then it was transferred to Sujangarh before the year 1995. On 23.5.1995 the case was transferred from Sujangarh to Ratangarh. Then again by administrative order, it was transferred to Sujangarh. The case was transferred by administrative order on 27.10.1999 to Ratantarh. Then this case has been transferred from Ratangarh to Churu by order dated 15.10.2003. It appears from the facts mentioned in the order passed by the learned District Judge, in Transfer Petition No.19/05 that from the plaintiffs' side five affidavits were filed on 28.10.2004. Those witnesses have not been cross-examined in last three years and the proceedings continued on the court at Churu. Now the Panchayat Samiti, Sujangarh and Pradhan, Panchayat Samiti,Sujangarh submitted transfer petition

before the court of District Judge, Churu and sought transfer of the said case from Churu to Ratangarh which was rejected by the learned District Judge, vide order dated 2.3.2007, copy of which has been provided by the learned counsel for the petitioner for perusal of this Court.

The learned counsel for the petitioners submitted that the learned counsel of the petitioner-defendants is a Senior Advocate and is old having age of 81 years. It is submitted that the originally the case was filed in the court of Ratangarh and looking to the age of the learned counsel, the case may be transferred from Churu to Ratangarh. It is submitted that in one case -Satya Narain vs. The State of Rajasthan (1997 Cr.L.R.(Raj.) 337), in almost identical case, the case was transferred by this Court.

I considered the submissions of the learned counsel for the petitioner and perused the facts of the case.

It is unfortunate that suit for prohibitory and mandatory injunction is pending in the court since last 23 years and that too at evidence stage only. The case was transferred from Ratangarh to Sujangarh before the year 1995, that is before 11 years ago. The case was again transferred time and time again and the case was ultimately transferred from Ratangarh to Churu on 15.10.2004. For

four years there was no grievance of any of the parties that they cannot appear in the court at Churu. When the case came up for recording evidence, that too in the year 2004, the transfer petition has been filed in the year 2007. In view of the above facts and in view of the reasons given by the learned District Judge, Churu in its order dated 2.3.2007 in detail, this Court is of the view that instead of transferring the case from the court at Churu to Ratangarh, the trial court may be directed to decide the suit expeditiously and keeping that case on day to day hearing basis so that such an old case may be decided expeditiously. At this juncture, it will be worthwhile to mention here that there are 15 defendants so that there are 15 non-petitioners in this transfer petition. It is also relevant to mention here that the learned Senior Advocate who is conducting the case of the petitioners in the trial court, has his son advocate who is also appearing in the case. Therefore, also I do not find any reason to transfer the case so as to cause delay in such a matter of old case.

The transfer petition is, therefore, dismissed. However, the trial court is directed to decide the suit expeditiously keeping the case on day to day hearing basis but it is also cautioned, in haste, the court should not deny reasonable opportunity of hearing to

both the parties and in case the case is not decided within a period of six months, the court may seek extension of time from this Court but no opportunity of hearing is denied to any of the parties because of the order passed by this Court. The trial court may also appoint commissioner for recording evidence if it is needed and is expedient in the interest of justice so that the case may be decided expeditiously.

(**PRAKASH TATIA),J.**

mlt.